

1 BRIAN J. STRETCH (CSBN 163973)  
2 Acting United States Attorney

3 KYLE F. WALDINGER (ILSB 6238304)  
4 Assistant United States Attorney

5 450 Golden Gate Avenue, 11th Floor  
6 San Francisco, California 94102  
7 Telephone: (415) 436-6830  
8 Facsimile: (415) 436-7234

9 Attorneys for Plaintiff

10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 UNITED STATES OF AMERICA, ) No. CR 07-0568 MHP  
14 Plaintiff, )  
15 v. ) PARTIES' JOINT REQUEST TO CONTINUE  
16 MARK JACOBSON, ) SENTENCING DATE AND [PROPOSED]  
17 Defendant. ) ORDER  
18 \_\_\_\_\_)

19 It is hereby stipulated by and between counsel for the United States, Assistant U.S.  
20 Attorney Kyle F. Waldinger, and counsel for defendant Mark Jacobson, Thomas Carlucci, that,  
21 subject to the Court's approval, the sentencing hearing presently set for September 22, 2008, be  
22 continued and set for sentencing hearing on February 9, 2009, at 9:00 a.m. The United States has  
23 previously determined from reviewing the Court's publicly posted scheduling information that  
24 the Court is currently available for a hearing on that date. The assigned probation officer,  
25 Constance Cook, also has been consulted with respect to this date and has indicated that she is  
available on that date.

26 The defendant Mark Jacobson pled guilty pursuant to a plea agreement on September 24,  
27 2007, to one count of conspiracy to misappropriate, receive, possess, and transmit trade  
28 secrets, gain unauthorized access to a protected computer, exceed authorized access to a

1 protected computer, and traffic in a password allowing unauthorized access to a protected  
2 computer, in violation of 18 U.S.C. §§ 1832(a)(5) and 371. The case was referred to the  
3 Probation Office for a presentence report. The plea agreement also includes standard terms of  
4 cooperation.

5 In light of continuing cooperation under the terms of the plea agreement, the parties  
6 jointly request that the sentencing status hearing on September 22, 2008, be continued for a  
7 sentencing hearing on February 9, 2009. Additional time is needed for the defendant to complete  
8 his cooperation with the government. Specifically, charges have now been filed against two  
9 additional individuals — David Nosal and Becky Christian. That case is numbered CR 08-0237  
10 MHP. The case against the defendant Christian is set to proceed to trial on August 5, 2008, and  
11 the defendant Jacobson is expected to testify in that trial. The defendant Nosal's trial has not yet  
12 been scheduled. When the Nosal matter does proceed to trial, the defendant Jacobson is also  
13 expected to testify in that matter. Because Mr. Jacobson will be required to testify in two trials,  
14 his cooperation with the government's investigation is not yet complete.

15 For all of these reasons, the parties jointly request that this Court vacate the sentencing  
16 hearing presently set for September 22, 2008, and set a sentencing hearing for February 9, 2009,  
17 at 9:00 a.m. In addition, the parties jointly request that the due dates for the presentence report  
18 be calculated using the new sentencing date.

19 SO STIPULATED.

20 Dated: July 15, 2008

BRIAN J. STRETCH  
Acting United States Attorney

21

22

23

/s/  
KYLE F. WALDINGER  
Assistant United States Attorney

24

25 SO STIPULATED.

26 Dated: July 15, 2008

/s/  
THOMAS CARLUCCI  
Attorney for defendant Mark Jacobson

27

1                   **[PROPOSED] ORDER**

2                   GOOD CAUSE APPEARING,

3                   IT IS ORDERED that the sentencing status hearing presently set for September 22, 2008,  
4                   be continued to February 9, 2009, at 9:00 a.m. The final presentence report should be disclosed  
5                   two weeks prior to the sentencing date.

6                   Dated this \_\_\_\_ day July, 2008

7  
8                   HONORABLE MARILYN HALL PATEL  
9                   UNITED STATES DISTRICT JUDGE

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28